

**IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT
OF TENNESSEE AT KNOXVILLE**

RUSTIN G. JACKSON

PLAINTIFF,

V.

No. 3:04-CV-344

**STATE OF TENNESSEE, COUNTY OF
CAMPBELL, CITY OF JACKSBORO, AND
DUSTIN ROSE AND BILLY MARLOW, IN
THEIR INDIVIDUAL CAPACITIES**

DEFENDANTS.

**MOTION TO DISMISS AND/OR FOR SUMMARY JUDGMENT BY CITY OF
JACKSBORO**

The City of Jacksboro, hereby appears, by and through counsel, and, pursuant to Rules 12 and 56 of the Federal Rules of Civil Procedure files this Motion to Dismiss and/or for Summary Judgment, and in support submits to this Honorable Court that the Plaintiff's Complaint and First and Second Amendment Complaints fail to state a claim upon which relief may be granted against this Defendant, there are no genuine issues as to any material fact and the City of Jacksboro is entitled to Summary Judgment as a matter of law. For cause, this Defendant submits the following issues for this Court's review.

1. None of the Officers listed in the Complaint for Violations of Constitutional Rights filed by the Plaintiff were employees of the City of Jacksboro at the time of the incident alleged by the Plaintiff, nor is there any proof that any agent or employee of the City of Jacksboro committed any of the acts alleged by the Plaintiff, and, as such, the Plaintiff's claims for false arrest, excessive force, denial of medical treatment, and

unreasonable search and seizure, actionable pursuant to 42 U.S.C. §1983, are without merit and should be dismissed.

2. There is no proof that any agent or employee with the City of Jacksboro arrested or filed any charges against the Plaintiff, therefore, the Plaintiff's claims for "libelous slander" are without merit against this Defendant and should be dismissed.
3. The Plaintiff's claim for breach of contract fails to state a claim upon which relief maybe granted, and, as such, the claim for breach of contract against this Defendant should be dismissed.
4. The Plaintiff's Tennessee Constitutional Violations allegations against this Defendant are without merit and should be dismissed.

In support of this Motion to Dismiss and/or for Summary Judgment this Defendant submits a Memorandum of Law and Support, and an Affidavit from Police Chief Danny Chapman.

Respectfully submitted this 22nd day of March, 2005.

CITY OF JACKSBORO

s/BENJAMIN K. LAUDERBACK, BPR. 20855
Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of March, 2005, a true and exact copy of this Answer was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system:

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Dated this 22nd day of March, 2005.

s/Benjamin K. Lauderback, BPR NO. 20855
BENJAMIN K. LAUDERBACK
Attorney for Defendant